

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RONDULA LANE,

Plaintiff,

-v-

6:10-CV-647 (NAM/ATB)

**CLAIRE PAPADIMITRIOUS, COMPLAINANT;
KEVIN BEACH, CHIEF OF ROME POLICE
DEPARTMENT; JEFFREY A. RACE, DETECTIVE;
JAMES P. BOYER, DETECTIVE; ALBERT J.
CICCONE, PATROLMAN; PATRICK J.
MARTHAGE, ESQ., FIRST ASSISTANT PUBLIC
DEFENDER; BARRY M. DONALTY, ACTING
SUPREME COURT JUSTICE; AND LAURIE LISI,
ESQ., ASSISTANT DISTRICT ATTORNEY,**

Defendants.

APPEARANCES:

Rondula I. Lane
Oneida Correctional Facility
P.O. Box 4580
6100 School Road
Rome, New York 13442-4580
Plaintiff, *pro se*

Hon. Norman A. Mordue, Chief U.S. District Judge:

MEMORANDUM-DECISION AND ORDER

In this *pro se* action under 42 U.S.C. § 1983, filed June 2, 2010, plaintiff claims his rights were violated in connection with a criminal prosecution against him. United States Magistrate Judge Andrew T. Baxter has prepared a Report and Recommendation (Dkt. No. 6) granting plaintiff's motion (Dkt. No. 2) for leave to proceed *in forma pauperis* only for the purpose of filing the complaint, and recommending that this Court dismiss the complaint (Dkt. No. 1) pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), (iii). ("[T]he court shall dismiss the case at any time if

the court determines that ... (B) the action ... (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.”).

Plaintiff has submitted an objection to the Report and Recommendation (Dkt. No. 10). He does not appear to object to dismissal of the claims against defendants Barry M. Donalty, Acting Supreme Court Justice, and Laurie Lisi, Esq., Assistant District Attorney; in any event, they must be dismissed on grounds of judicial and prosecutorial immunity. *See* 28 U.S.C. § 1915(e)(2)(B)(iii). Plaintiff objects to the recommended dismissal of the claims against the other defendants, and the Court reviews these matters *de novo*. *See* 28 U.S.C. § 636(b)(1)(C). Upon *de novo* review, the Court agrees with Magistrate Judge Baxter’s conclusion that the claims against the other defendants fail to state a claim upon which relief may be granted and must be dismissed. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

In objecting to dismissal of his claims, plaintiff alleges that the state criminal trial underlying the instant section 1983 action “is now over” and that he was “found guilty of all the charges brought up against [him.]”¹ Thus, plaintiff’s claims in the nature of perjury, slander, evidence-tampering, conspiracy to bring unfounded criminal charges against him, and false imprisonment necessarily implicate the validity of his conviction and are thus barred under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994), until such time as the conviction may be vacated or otherwise invalidated. *See Channer v. Mitchell*, 43 F.3d 786, 787-88 (2d Cir. 1994); *Jackson v. County of Nassau*, 2010 WL 335581, *8 (E.D.N.Y. 2010). Likewise, plaintiff’s claim of ineffective assistance of his assigned trial counsel implicates the validity of his conviction and is

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An internet search for plaintiff’s name discloses that on June 17, 2010, an Oneida County jury found Rondula Lane guilty of all charges against him, including sexual abuse, burglary, and several counts of criminal sexual act. Sentencing is August 9, 2010. *See* <http://www.wktv.com/news/local/96570104.html>.

barred by *Heck*. See *Evans v. Nassau County*, 184 F.Supp.2d 238, 243 (E.D.N.Y. 2002). For these reasons as well, the complaint is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

It is therefore

ORDERED that the Report and Recommendation is accepted; and it is further

ORDERED that for the reasons set forth in the Report and Recommendation and in this Memorandum-Decision and Order, the complaint is dismissed.

IT IS SO ORDERED.

Date: July 14, 2010
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge

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